

Federal Defenders
OF NEW YORK, INC.

One Pierrepont Plaza-16th Floor, Brooklyn, NY 11201
Tel: (718) 330-1200 Fax: (718) 855-0760

David E. Patton
*Executive Director and
Attorney-in-Chief*

Deirdre D. von Dornum
Attorney-in-Charge

March 22, 2019

Ms. Margaret Gandy, Esq.
Assistant United States Attorney
United States Attorney's Office
271 Cadman Plaza East, 4th Floor
Brooklyn, N.Y. 11201

Re: U.S.A. v. Qawon Allen, 19 CR 128 (NGG)

Dear Ms Gandy:

In accordance with the Federal Rules of Criminal Procedure 16, 12(c) and 12(d), and Federal Rules of Evidence 104, 403, 404, 608 and 609, I make the following requests on behalf of Mr. Allen:

1. Pursuant to Federal Rule of Criminal Procedure (FRCP) Rule 16(a)(1)(A) and (B), please provide me with any written, recorded, or oral statements made by Mr. Allen. Please include all statements made by Mr. Allen at any time and in any context, regardless of the government's intentions with respect to their use at hearing or trial. This request includes statements which the government may use for impeachment or other purposes.

Please be sure to include the portion of any written record made by a government agent containing the substance of statements made by my client either before or after arrest, as required by FRCP 16(a)(1)(B)(ii), regardless of the government's intentions with respect to use of the statement at hearing or trial. This request includes internal reports and memoranda prepared by law enforcement agents to the extent that statements of Mr. Allen are related or described therein. Where Mr. Allen's statement is contained in more than one writing, please provide a copy of each such writing.

It appears that this case may initially have been investigated by the New York City Police Department (NYPD). We ask that the Government check the memo books and other documents prepared by the NYPD for statements made by Mr. Allen.

2. Please provide a copy of Mr. Allen's prior criminal record, pursuant to FRCP Rule 16(a)(1)(D). We also ask the Government to determine whether Mr. Allen has any prior youthful offender adjudications or juvenile offender adjudications, and if so, to please provide information concerning those charges, including, but not limited to, a copy of any complaint or

indictment filed, and any local presentence reports prepared.

Please also state whether the government intends to offer evidence of prior or subsequent criminal or bad acts pursuant to Federal Rule of Evidence 404(b) in connection with this case, whether of Mr. Allen or any other person, and if so, please provide the particulars of those acts including time, date, and exact location of the commission of the acts, a description of the acts, and whether any legal, court, or administrative proceedings resulted, and if so, in what court and with what result, and if not, why not.

3. Pursuant to FRCP 16(a)(1)(E), please provide copies or permit me to inspect and copy any documents or objects that are in the government's possession and are (i) material to the preparation of the defense; (ii) that the government intends to use in its case in chief; or (iii) that were obtained from or belong to my client.

Please also provide copies of any video or photographs of the alleged offense, or any location alleged to be associated with this case, or any diagrams prepared of the location of the offense or any other location.

Electronic Discovery:

Please provide copies of all records or materials that are in electronic storage in an electronic communication device, data device, or internet accessible device seized from Mr. Allen or obtained in some other way. Please provide copies of any applications, orders, warrants, and subpoenas that were prepared in connection with this case (18 U.S.C. § 2703(D)). Please provide all other material, including any forensic reports, and chat, text, or instant messaging data that was obtained as a result of digital searches and seizures of these devices, whether with or without a warrant or subpoena.

4. Please provide an inventory of all evidence and personal items obtained in this case, including any obtained from the person of Mr. Allen, or any other location alleged to be associated with this case.

5. Pursuant to FRCP 16(a)(1)(F), if any identification procedure was employed as part of this arrest, please provide copies of all photographs and photo arrays, as well as all documents or recordings, which describe or memorialize the identification procedure(s).

6. Pursuant to FRCP 16(a)(1)(G), please disclose or provide the name of any expert witness and his/her qualifications that the government intends to call at hearing or trial; a written summary of the witness's expected testimony; a written summary of the bases for the witness's testimony; and copies of the results or reports of any scientific tests and experiments the witness intends to use or rely on at hearing or trial.

7. Please provide a list of witnesses the government intends to call at hearing or trial at a reasonable time prior to those witnesses' testimony. Please also provide copies of prior statements of those witnesses or reports of agents or reports of any agency related to this case at a

reasonable time prior to those witnesses' testimony. To that end, below please find a list of reports and other items that may have been prepared by officers of the New York City Police Department or recorded by employees of the New York City Police Department as part of this arrest or the charges contained in the indictment or prior bad acts:

- (a) Arrest report
- (b) Complaint Report
- (c) Complaint Follow-up Report
- (d) On Line Booking Arrest Worksheet
- (e) Memo Book entries
- (f) Evidence and Property vouchers
- (g) Pedigree sheets or Precinct Log Book entries
- (h) Audio copies of any 911 calls or "radio runs," and transcripts of any such calls or "sprint" reports;
- (i) Arrest Photograph.

Please also provide the names and addresses of any person present during any part of the commission of any of the acts alleged in the indictment or complaint whom the government does not intend to call as a witness at any hearing or trial, including law enforcement or police witnesses.

Please also provide copies of any "letter agreements" entered into, or any other agreement made, between the government or its agents and any prospective witness offering assistance to the witness in obtaining leniency in any court, or lack of prosecution or arrest, or any other favorable treatment or consideration for the efforts made in connection with any aspect of this case by the witness.

8. Pursuant to the Constitutional requirements of United States v. Agurs, 427 U.S. 97 (1976), Giles v. Maryland, 386 U.S. 66 (1967), and Brady v. Maryland, 373 U.S. 83 (1963), please provide any exculpatory or favorable evidence or information, or any evidence or statements of anyone which may be favorable to Mr. Allen or which may tend to exonerate him, including, but not limited to, the following:

(a) copies of any statement which is exculpatory of or favorable to Mr. Allen or which is inconsistent with any fact the government alleges with respect to the charges in the indictment;

(b) copies of any physical evidence, reports, or test results which are exculpatory of or favorable to Mr. Allen, or which are inconsistent with any fact the government alleges with respect to the charges in the indictment,

(c) copies of any reports of mental illness, drug use, excessive alcoholism, or any medical condition (physical or psychological or psychiatric) of any prospective government witness or informant which would affect the ability to observe or remember an observed fact or might show such witness's bias, partiality or incompetence;

(d) copies of any prospective government witness's criminal record,;

(e) any government report on any witness's uncharged criminal behavior; and

(f) any other information about any prospective government witness or informant which impeaches his or her credibility by demonstrating interest, motives, prejudices, hostilities, and means for obtaining knowledge or associations.

9. Please provide a detailed description of any documents, objects or physical evidence relating to this case which have been destroyed, lost, or which are no longer in the custody or control of the government. If the government contemplates destroying or releasing any such items in the future, we request notice and an opportunity to object prior to any such action.

10. If and to the extent that any information requested above is unavailable now but becomes available in the future, please consider these requests as ongoing and provide me with the new information as soon as it becomes available.

11. If the items listed below are not provided in discovery but exist or are created in the future, please preserve them.

- emails, text messages, or instant messages between the prosecutors, police, federal agents, and lay or expert witnesses;

- any audio or videotapes recovered or created as part of the investigation or prosecution of this case;

- the contents of all electronic devices recovered in this case, or belonging to witnesses in this case;

- all social media accounts that may bear upon the prosecution, including but not limited to Facebook, Google, AOL, Yahoo, Twitter, Instagram, Snapchat, or any online cloud backup that may contain information from social media accounts. Please include any postings by potential witnesses or victims, including those that have been taken down but can be recovered by the government;

- all handwritten notes prepared by prosecutors, police, federal agents, lay or expert witnesses;

- any and all medical records that may have relevance to the prosecution or the defense.

Sincerely,

Mildred M. Whalen
Staff Attorney
(718) 330-1290

cc: ECF